FOR THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA GREENVILLE DIVISION

Danny Ray Gainey,) Civil Action No. 6:11-1247-TLW-KFM
Plaintiff,))
VS.	REPORT OF MAGISTRATE JUDGE
Nurse R. Kelly, Nurse Nancy Hiest, Nurse Dawn Colman,))
Defendants.)))

This matter is before the court on the plaintiff's motion for default (doc. 28). The plaintiff, a detainee at the Florence County Detention Center who is proceeding *pro se*, alleges that the defendant nurses have been deliberately indifferent to his medical needs.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983.

The complaint in this case was filed on May 25, 2011. On June 17, 2011, this court authorized service of process. However, the summonses were not issued by the Clerk of Court until September 29, 2011. The court has not yet received executed returns of service from the United States Marshals Service showing the defendants were served with the summonses and complaint.

On August 31, 2011, the plaintiff filed the instant motion asking that the court make a "summary judgment in this case" because the defendants have not answered, which this court has construed as a motion for default. Entry of default is appropriate when a party fails to timely plead. Fed.R.Civ.P. 55. Here, the defendants have not yet been served with the summons and complaint, and thus their answer is not late.

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Wherefore, based upon the foregoing, the plaintiff's motion for default (doc. 28) should be denied.

s/Kevin F. McDonald United States Magistrate Judge

October 28, 2011 Greenville, South Carolina